

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ELAINE KEYMO MURRIEL,

Plaintiff,

Case No.: 19-
Hon.

-NO

-v-

CITY OF DETROIT, a Municipal Corporation,
DETROIT POLICE DEPARTMENT, and Detroit
Police Officer GARY STEELE, in his Individual Capacity,
Jointly and Severally,

Defendants.

/

GEOFFREY N. FIEGER (P30441)
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/

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Another civil action between some of these parties arising out of the transaction or occurrence alleged in the Complaint has been previously filed in Wayne County Circuit Court. That action remains pending. The docket number is 18-011011-CZ and it was assigned to Honorable Martha M. Snow.

/s/ Todd J. Weglarz

Plaintiff, ELAINE KEYMO MURRIEL, by and through her attorneys, Fieger, Fieger, Kenney & Harrington, P.C., states the following for her Complaint against the above-named Defendants:

1. At all times relevant, Plaintiff ELAINE KEYMO MURRIEL (hereafter "Plaintiff" and/or "Murriel") was a resident of the City of Detroit, County of Wayne, State of Michigan.

2. At all times relevant and upon information and belief, Defendant GARY STEELE (“STEELE”) was and is a resident and/or conducted business in the City of Detroit, County of Wayne, State of Michigan, employed as a City of Detroit police officer by Defendants CITY OF DETROIT and the DPD.

3. At all times relevant, Defendant CITY OF DETROIT (“CITY OF DETROIT”) is a municipal corporation located in Wayne County, Michigan, and among other services, it provides to its residents a police agency, namely the Defendant DETROIT POLICE DEPARTMENT (“DPD”), which acts under the color of Michigan and municipal law.

4. At all times relevant, Defendants CITY OF DETROIT and the DPD were the employers for Defendant Officer STEELE.

5. The violations committed by Defendant STEELE were all committed while he was acting within the course and scope of his employment with Defendants CITY OF DETROIT and the DPD.

6. Defendants are not immune from suit by governmental immunity for claims herein.

7. The acts, transactions, occurrences, and/or omissions occurred within the City of Detroit, County of Wayne, State of Michigan.

8. The amount in controversy exceeds Twenty-Five Thousand (\$25,000.00) Dollars, excluding interest, costs and attorney fees.

FACTUAL ALLEGATIONS

9. On May 31, 2018, Plaintiff was the driver of a 2013 Ford Fusion that was parked near the intersection of Faust Road and Dover Road in Detroit, Michigan.

10. Plaintiff was dropping her infant son off at his father’s house near the intersection

of Faust Road and Dover Road at approximately 3:54 p.m. on said date.

11. Ashante Paige Moore was driving her vehicle near the same intersection of Faust Road and Dover Road at the same time as Plaintiff.

12. Ms. Moore knew the Plaintiff in that Ms. Moore was dating the father of Plaintiff's son. At the time of this incident, Plaintiff had a personal protection order against Ms. Moore due to prior altercations that occurred between both women.

13. Ms. Moore saw Plaintiff standing next to her Ford Fusion, trying to get her son out of the back seat.

14. While Plaintiff was unloading her son from her vehicle, Ms. Moore attempted to cause serious bodily harm and/or death to Plaintiff by driving her vehicle at Plaintiff's body, in an attempt to run her over.

15. Fearing for her life and the life of her son, Plaintiff lawfully defended herself by discharging her lawfully owned and licensed firearm in the direction of Ms. Moore's vehicle to alleviate the imminent threat of harm posed by Ms. Moore and Ms. Moore's vehicle.

16. 911 was called and the DPD responded.

17. Defendant STEELE and several other DPD officers including Officer Davila, Officer James Corsi, and Officer Michael Krantz, responded to the 911 call and dispatch request, and arrived on scene shortly thereafter.

18. DPD officers' reports note that Plaintiff was "extremely compliant" when they stopped and talked to Plaintiff.

19. Plaintiff properly and lawfully advised the DPD officers at the scene, including Defendant STEELE, that she had a CPL and was carrying a firearm which she had secured in the trunk of her vehicle.

20. Plaintiff also advised the DPD officers that she recently discharged her firearm while defending herself against Ms. Moore, who was operating a motor vehicle and trying to harm and run over Plaintiff.

21. Said DPD officers spoke to several witnesses at the scene, including the child's father, who corroborated and supported Plaintiff's version of events that Plaintiff was acting in self-defense when she lawfully discharged her lawfully owned firearm.

22. Defendant STEELE observed and took note that Plaintiff was a young African American female.

23. Notwithstanding Plaintiff and other witnesses advising the DPD officers of Plaintiff's lawful acts of self-defense, Defendant STEELE decided to unlawfully seize and arrest the Plaintiff.

24. Defendant STEELE suddenly and physically placed Plaintiff under arrest.

25. Plaintiff was holding her infant son in her arms at the time Defendant STEELE physically placed her under arrest.

26. Defendant STEELE directed Plaintiff to place her hands behind her back.

27. Plaintiff naturally asked if she could give her son to one of his relatives, either the child's father, her mother, or aunt, who were standing just down the street.

28. Plaintiff asked Officers why she was being arrested and going to jail, and again asked if she could hand her son over to family members standing nearby.

29. Defendant STEELE ordered Officer Corso to physically hold Plaintiff's arms while instructing Officer Davila to grab and rip the scared, crying child from Plaintiff's arms and hands.

30. Once the child was snatched from Plaintiff, Defendant STEELE pushed Plaintiff

up against her vehicle, and violently grabbed Plaintiff's arms.

31. While STEELE was attempting to handcuff Plaintiff by pulling and yanking Plaintiff's left arm, Plaintiff began screaming in pain, as STEELLE was viciously and savagely bending her left arm backward, forcing it to bend backward, in an abnormal manner, and against the natural range of motion allowed by the elbow joint.

32. Notwithstanding Plaintiff's screams, and notwithstanding the obvious and grossly abnormal manner in which Defendant STEELE was pulling back on Plaintiff's arm, STEELE proceeded to continue pulling her left arm backward against the laws of nature, with such force that he broke the Plaintiff's left arm, specifically snapping the lateral epicondyle bone.

33. The entire gut-wrenching event was captured on video by Officer Corsi's body camera:



34. Plaintiff helplessly felt extreme bolts of pain surge through her arm and nerve endings, as her disfigured and broken left arm dangled behind her back while in handcuffs. Plaintiff's shrieks and cries of pain, and shouts of "you broke my arm! Broke my arm!" will send

chills down any viewer's spine.

35. Immediately after Defendant STEELE viciously and savagely broke Plaintiff's left arm, other responding officers were upset and angry over Defendant STEELE's conduct, and commented that Defendant STEELE's actions were completely unnecessary.

36. None of the Officers observed Plaintiff commit any crime at any time prior to or during the confrontation or the brutal, unjustified physical attack by STEELE on Plaintiff.

37. Plaintiff did not have a weapon or display any object that appeared to be a weapon at any time prior to or during the brutal, unjustified physical attack on Plaintiff.

38. Plaintiff did not threaten in any way any of the Officers at any time prior to or during the confrontation and the brutal, unjustified physical attack on Plaintiff.

39. Plaintiff did not pose an immediate threat of harm to any of the Officers or any other person in the immediate vicinity at any time prior to or during the confrontation and the brutal, unjustified physical attack Defendant STEELE inflicted upon the Plaintiff.

40. Plaintiff did not pose any realistic likelihood of risk of flight at any time prior to or during the confrontation or brutal, unjustified physical attack on Plaintiff.

41. Defendant STEELE did not have a justifiable reason to use the grossly excessive and vicious use of force which he deployed upon Plaintiff.

42. Plaintiff did not commit, nor was she charged with, any crimes or offenses relating to the underlying incident with Ms. Moore or to her interactions with the DPD, including with Defendant STEELE.

43. As a direct and proximate result of the wrongful acts and omissions of Defendant STEELE, Plaintiff sustained severe and permanent injuries.

44. Defendants CITY OF DETROIT and the DPD were well aware of Defendant

STEELE's propensity for racism and violence, especially towards women.

45. In March of 2008, Defendant STEELE tortured and attempted to kill his ex-girlfriend by hitting her in the leg with a baseball bat, choking her, straddling her after she fell to the ground, placing a loaded gun inside of her mouth, pointing a loaded gun to her head, and telling her "I will (expletive) kill you" shortly before, during, and/or after he fired three shots near the left side of her head.

46. Numerous felony charges were filed against Defendant STEELE as a result of the above assaults committed against his ex-girlfriend, including, upon information and belief, felony charges for torture and assault with intent to murder.

47. Defendant STEELE entered a plea of no contest to reckless discharge of a firearm in connection to the above incident.

48. Notwithstanding the disturbing and grossly violent acts committed by Defendant STEELE, Defendants CITY of DETROIT and the DPD permitted and allowed Defendant STEELE to remain on its police force as an armed police officer with a known history and propensity for assaultive violence.

49. Defendants CITY OF DETROIT and the DPD were also well aware of the systematic, ongoing, and ratified racism that has permeated the City's police department for years. Recently, the department's Committee on Race and Equality, a group of officers that was set up in 2016 to address racial issues, recognized "embedded racial attitudes and behavior exhibited by some in the command staff." Further, "[i]t was determined that the problems within the department were...top-down entrenched discriminatory practices. Simply put, the racism that exist(s) in the department trickles down from command officers to the rank and file," the

report said.¹

50. An example of the manifestation of the embedded racism within the DPD was recently acknowledged by DPD Investigators and Detectives who declared that during his career as a DPD Officer, Defendant STEELE made disparaging remarks about black citizens and acted inappropriately toward black citizens he encountered while working as a DPD officer.

51. In 2017, according to Defendants' Police Chief James Craig, Defendant STEELE impounded a car during Christmas, immediately after which STEELE forced kids to walk home while carrying the Christmas gifts which were in the car. Defendant STEELE supposedly made a Snapchat video depicting the kids walking home, on STEELE can apparently be heard saying "walk of shame" and other racially insensitive remarks.

52. As a direct and proximate result of Defendants' actions as described above and below, Plaintiff has suffered injuries and damages, and will continue to suffer injuries and damages into the future, including but not limited to:

- a. Physical pain and suffering;
- b. Closed displaced lateral epicondyle (elbow) fracture;
- c. Coronoid process fracture;
- d. Necessity of open reduction internal fixation (ORIF) of the lateral condyle in her left elbow;
- e. Permanent scarring;
- f. Mental anguish;
- g. Severe emotional distress;
- h. Fright and shock;
- i. Denial of social pleasures and enjoyment;
- j. Humiliation and mortification;
- k. Reasonable medical bills and expenses for the past, present and future;
- l. Future medical treatment;
- m. Wage loss and loss of earning capacity;
- n. Punitive damages;
- o. Exemplary damages,
- p. Costs of litigation and attorney fees; and,
- q. All other damages properly recoverable under law.

¹ <https://www.detroitnews.com/story/news/local/detroit-city/2019/02/07/calls-fire-cop-who-posted-racist-video-premature-police-chief-says/2800360002/>

COUNT I

**STATE LAW CLAIMS FOR GROSS NEGLIGENCE & WANTON AND
WILLFUL MISCONDUCT
(Defendant Steele)**

53. Plaintiff hereby restates and realleges the paragraphs above as if fully set forth herein.

54. That Defendant STEELE had knowledge of each and every factual allegation set forth above.

55. That in taking physical custody over Plaintiff's person, Defendant STEELE undertook and owed a duty to Plaintiff to make reasonable efforts to care for her in a reasonable and prudent manner, to exercise due care and caution, and in accordance of the rules of the common law, and with the customs, policies and procedures of the Detroit Police Department.

56. That notwithstanding the aforementioned duties, Defendant STEELE took into custody Plaintiff's person in an extremely careless, grossly negligent, reckless, and wanton and willful manner without concern whatsoever for Plaintiff's safety and welfare, and failed to tend to Plaintiff's serious medical needs including, but not limited to, the following particulars by way of illustration and not limitation:

- a. Instructing another officer to suddenly grab Plaintiff's infant son from Plaintiff's arms;
- b. Unnecessarily and excessively grabbing Plaintiff's left arm;
- c. Violently and excessively pulling and bending Plaintiff's left arm backward until the left arm "broke", causing serious injury and damage to, near, and around, the left elbow, which required surgical repair thereof;
- d. Failing to timely and properly provide supportive measures to alleviate Plaintiff's significant pain caused by Defendant's excessive use of force which broke and fractured her left arm;

57. That the above described actions and/or inactions violated MCLA 691.1407 in that they amounted to gross negligence, specifically conduct so reckless as to demonstrate a substantial disregard for whether an injury resulted, and/or amount to assault and battery, and/or false imprisonment.

58. That as a direct and proximate result of the aforementioned conduct and omissions of Defendant STEELE, Plaintiff suffered the injuries and damages as set forth above.

WHEREFORE, Plaintiff requests that this Honorable Court enter a Judgment in favor of Plaintiff and against Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, plus costs, interest and attorney fees.

COUNT II

VIOLATION OF ELLIOT LARSEN CIVIL RIGHTS ACT MCL 37.2101 *et seq.* **(Defendants CITY OF DETROIT, DPD & STEELE)**

59. Plaintiff hereby reincorporates each and every allegation contained in preceding paragraphs as if fully stated herein.

60. Under the Michigan Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.* (ELCRA), the Defendants are precluded from denying Plaintiff the full and equal enjoyment of the “goods, services, facilities, privileges, advantages, or accommodations of a public service” on account of Plaintiff’s race and sex.

61. As a result of the above described actions and conduct, Plaintiff was denied full and equal enjoyment of public services on account of her race and sex, in direct violation of ELCRA.

62. As a result of the above actions and conduct, Plaintiff was subjected to harassment based upon her race and sex, as defined under the ELCRA, to the point where said actions and conduct substantially interfered with Plaintiff’s public accommodations and public

services, thereby creating an intimidating, hostile, and/or offensive public accommodations and public services environment, in direct violation of ELCRA.

63. That as a direct and proximate result of Defendants' actions and conduct, Plaintiff suffered the numerous injuries and damages as more particularly described above.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter judgment against Defendants, jointly and severally, in an amount in excess of \$25,000.00, together with interest, costs, attorney fees, and exemplary damages.

Respectfully submitted,

/s/ Todd J. Weglarz
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Dated: April 25, 2019

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Plaintiff,

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CITY OF DETROIT, a Municipal Corporation,
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JURY DEMAND

Plaintiff, ELAINE KEYMO MURRIEL, by and through her attorneys, Fieger, Fieger, Kenney & Harrington, P.C., hereby demands a Trial by Jury in this matter.

Respectfully submitted,

/s/ Todd J. Weglarz
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Dated: April 25, 2019